

## APPENDIX 2

### FORMS REFERENCED IN THIS HANDBOOK

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#### **Forms**

FEMA Form 81-93, Standard Flood Hazard Determination  
Form RD 400-1, Equal Opportunity Agreement  
Form RD 400-3, Notice to Contractors and Applicants  
Form RD 400-6, Compliance Statement  
Form RD 410-4, Application for Rural Assistance (Nonfarm Tract), Uniform Residential Loan Application  
Form RD 410-8, Applicant Reference Letter  
Form RD 440-34, Option to Purchase Real Property  
Form RD 440-58, Estimate of Settlement Costs  
Form RD 1007, Marshall and Swift Square Foot Appraisal Form  
Form RD 1910-5, Request for Verification of Employment  
Form RD 1922-8, Uniform Residential Appraisal Report  
Form RD 1922-12, Nonfarm Tract Comparable Sales Data  
Form RD 1922-14, Residential Appraisal Review for Single Family Housing  
Form RD 1922-15, Administrative Appraisal Review for Single Family Housing  
Form RD 1924-2, Description of Materials  
Form RD 1924-6, Construction Contract  
Form RD 1924-7, Contract Change Order  
Form RD 1924-9, Certification of Contractor's Release  
Form RD 1924-10, Release by Claimants  
Form RD 1924-12, Inspection Report  
Form RD 1924-16, Record of Pre-Construction Conference  
Form RD 1924-19, Builder's Warranty  
Form RD 1924-25, Plan Certification  
Form RD 1927-2, Transmittal of Form RD 1927-19/1927-20  
Form RD 1924-4, Transmittal of Title Information  
Form RD 1927-5, Affidavit Regarding Work of Improvement  
Form RD 1927-8, Agreement with Prior Lienholder  
Form RD 1927-9, Preliminary Title Opinion  
Form RD 1927-15, Loan Closing Instructions and Loan Closing Statement  
Form RD 1927-16, Notification of Loan Closing  
Form RD 1927-19, Certification of Attorney  
Form RD 1927-20, Certification of Title Insurance Company  
Form RD 1940-16, Promissory Note  
Form RD 1940-21, Environmental Assessment for Class I Action  
Form RD 1940-22, Environmental Checklist for Categorical Exclusions

Form RD 1940-41, Truth in Lending Statement  
Form RD 1940-43, Notice of Right to Cancel  
Form RD 1940-59, Settlement Statement  
Form RD 1944-3, Budget and/or Financial Statement  
Form RD 1944-4, Certification of Disability or Handicap  
Form RD 1944-5, Manufactured Housing Dealer-Contractor Application  
Form RD 1944-6, Interest Credit Agreement  
Form RD 1944-11, Conditional Commitment  
Form RD 1944-12, Rural Housing Loan Application Package  
Form RD 1944-14, Payment Assistance/Deferred Mortgage Assistance Agreement  
Form RD 1944-36, Application for Conditional Commitment  
Form RD 1944-59, Certificate of Eligibility  
Form RD 1944-60, Landlord's Verification  
Form RD 1944-61, Credit History Worksheet  
Form RD 1944-62, Request for Verification of Deposit  
Form RD 1955-2, Report on Real Estate Problem Case  
Form RD 1955-42, Open Real Property Master Listing Agreement  
Form RD 1955-43, Notice of Real Property for Sale (Single Family Housing)  
Form RD 1955-44, Notice of Residential Occupancy Restriction  
Form RD 1955-45, Standard Sales Contract, Sale of Real Property by the United States  
Form RD 1955-46, Invitation Bid and Acceptance-Sale of Real Property by the United States  
Form RD 1955-47, Bill of Sale 'A'  
Form RD 1955-49, Quitclaim Deed  
Form RD 3550-1, Borrower's Certification and Authorization  
Form RD 3550-2, Request for Verification of Gift/Gift Letter  
Form RD 3550-3, Notification and Statement of Reasons for Credit Denial, Termination or Change  
Form RD 3550-4, Employment Certification/Payment Assistance  
Form RD 3550-6, Notice of Special Flood Hazards and Availability of Federal Disaster Relief Assistance  
Form RD 3550-7, Mortgage Loan Commitment  
Form RD 3550-9, Initial Escrow Account Disclosure Statement  
Form RD 3550-10, Condominium Rider  
Form RD 3550-11, Planned Unit Development (PUD) Rider  
Form RD 3550-12, Subsidy Repayment Agreement  
Form RD 3550-14, Real Estate Mortgage or Deed of Trust for (State)  
Form RD 3550-15, Tax Information  
Form RD 3550-16, Release from Personal Liability  
Form RD 3550-17, Funds Transmittal Report  
Form RD 3550-19, Transmittal-Closing Documents  
Form RD 3550-22, Assumption Agreement, Single Family Housing Loan  
Form RD 3550-23, Applicant Orientation Guide  
Form RD 3550-24, Grant Agreement  
Form RD 3550-26, USDA Rural Housing Service-Substitute Payment Coupon  
Form SF-5510, Authorization Agreement for Preauthorized Payments  
ASTM E-1528, Transaction Screen Questionnaire

**CERTIFICATIONS**

Grant Repayment Agreement  
Verification of Pensions and Annunities  
Verification of Student Income and Expenses  
Verification of Medical Expenses  
Verification of Social Security Benefits  
Verification of Public Assistance  
Verification of Child/Dependent Care  
Verification of Unemployment Benefits  
Verification of Business Expenses  
Verification of Support Payments  
Certification of Disposition of Assets  
Record of Oral Verification

## VERIFICATION OF PENSIONS AND ANNUITIES

### REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

### APPLICANT IDENTIFICATION

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

### REQUESTED INFORMATION

#### A. INCOME FROM ANNUITIES

1. \$ \_\_\_\_\_ Current monthly gross amount received. Will the applicant continue to receive this monthly amount for the next twelve months? ☐ Yes ☐ No If, no please explain.
2. Describe any deductions from the gross amount that are taken.

#### B. VERIFICATION OF ASSETS

1. \$ \_\_\_\_\_ Current market value of assets held in the retirement or pension plan.
2. Can the applicant withdraw amounts from the retirement account without retiring or terminating employment? ☐ Yes ☐ No. If yes, explain the terms of the withdrawal, including any penalties.
3. Can the applicant borrow against amounts in the retirement account? ☐ Yes ☐ No If yes, explain the terms (maximum amount, interest rate, repayment term, purposes, etc.)

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
(Signature) Telephone Number: \_\_\_\_\_

**WARNING:** Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

## VERIFICATION OF STUDENT INCOME AND EXPENSES

### REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

### APPLICANT IDENTIFICATION

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

### REQUESTED INFORMATION

1. Describe any financial assistance the above-reference student receives.

<u>Amount</u>	<u>Source</u>	<u>Purpose for Which Funds May Be Used</u>
---------------	---------------	--

2. Describe any expenses the above-referenced student has for:

\$ _____	Tuition
\$ _____	Housing
\$ _____	Books
\$ _____	Supplies and Equipment
\$ _____	Transportation
\$ _____	Misc. Personal Expenses
\$ _____	Total

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
(Signature) Telephone Number: \_\_\_\_\_

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## VERIFICATION OF MEDICAL EXPENSES

### REQUEST FOR INFORMATION

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Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

### APPLICANT IDENTIFICATION

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

### REQUESTED INFORMATION

- Please list the purpose of any accumulated medical bills, identify to whom the amount is owed, and provide the amount to be paid during the coming 12 months.

Amount

Owed To

Medical Expenses for

- Medical Insurance Premiums

\$ \_\_\_\_\_ Amount Paid      Payment Period: \_\_\_\_ per month, \_\_\_\_ per year

Medical Insurance Premiums

\$ \_\_\_\_\_ Amount Paid      Payment period: \_\_\_\_ per month, \_\_\_\_ per year

- List other anticipated medical expenses

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
(Signature) Telephone Number: \_\_\_\_\_

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## VERIFICATION OF SOCIAL SECURITY BENEFITS

### REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

### APPLICANT IDENTIFICATION

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

### REQUESTED INFORMATION

#### Social Security Data

\_\_\_\_\_ Date of Birth

\_\_\_\_\_ Gross Monthly Social Security Benefit Amount, Type of Benefit

\_\_\_\_\_ Gross Monthly Supplemental Security Income Payment Amount (including State Supplement) Type of Benefit

\_\_\_\_\_ Amount of Monthly Deductions for Medicare Paid by the Applicant

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_ Telephone Number: \_\_\_\_\_

(Signature)

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**VERIFICATION OF PUBLIC ASSISTANCE****REQUEST FOR INFORMATION**

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

**APPLICANT IDENTIFICATION**

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

**REQUESTED INFORMATION**

	<u>Rate Per Month</u>
Number in Family: _____	
Aid to Families with Dependent Children	\$ _____
General Assistance	\$ _____
Does this amount include Court Awarded Support Payments	<input type="checkbox"/> Yes <input type="checkbox"/> No
Amount Specifically Designated for Shelter and Utilities	\$ _____
Other Assistance - Type: _____	\$ _____
Total Monthly Grant	\$ _____
Other Income - Source: _____	\$ _____
*Maximum Allowance for Rent and Utilities	\$ _____
Amount of Public Assistance given during the past 12 months	\$ _____

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
(Signature) Telephone Number: \_\_\_\_\_

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## VERIFICATION OF CHILD/DEPENDENT CARE

### REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

### APPLICANT IDENTIFICATION

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

### REQUESTED INFORMATION

Name of Person or Agency Providing Care: \_\_\_\_\_

Address: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Name(s) of person or Persons Cared for: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Specify Hours \_\_\_\_\_ and Days \_\_\_\_\_ of Care.

Average Amount Paid for Care: \$ \_\_\_\_\_ ☐ Week ☐ Month

Estimated Amount to be Paid in coming 12 months (including full-time summer care of school children, if applicable): \$ \_\_\_\_\_

Will any amount of this expense be reimbursed by an outside source: ☐ Yes ☐ No

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
 (Signature)

**WARNING:** Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

## VERIFICATION OF UNEMPLOYMENT BENEFITS

### REQUEST FOR INFORMATION

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Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

### APPLICANT IDENTIFICATION

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

### REQUESTED INFORMATION

1. Are benefits being paid now? ☐ Yes ☐ No
2. If yes, what is Gross Weekly payment? \$ \_\_\_\_\_
3. Date of Initial Payment \_\_\_\_\_
4. Duration of Benefits \_\_\_\_\_ weeks
- Is claimant eligible for future benefits? ☐ Yes ☐ No
5. If yes, How many weeks? \_\_\_\_\_
6. If no, what is termination date of benefits? \_\_\_\_\_

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_  
(Signature) Telephone Number: \_\_\_\_\_

**WARNING:** Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

## VERIFICATION OF BUSINESS EXPENSES

### REQUEST FOR INFORMATION

Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.

Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call \_\_\_\_\_ at \_\_\_\_\_.

### APPLICANT IDENTIFICATION

Name \_\_\_\_\_ Social Security Number \_\_\_\_\_

### REQUESTED INFORMATION

Based on business transacted during \_\_\_\_\_ 19\_\_\_\_, to \_\_\_\_\_ 19\_\_\_\_

- |                                |          |
|--------------------------------|----------|
| 1. Gross Income                | \$ _____ |
| 2. Expenses:                   |          |
| (a) Interest on Loans          | \$ _____ |
| (b) Cost of Goods/Materials    | \$ _____ |
| (c) Rent                       | \$ _____ |
| (d) Utilities                  | \$ _____ |
| (e) Wages/Salaries             | \$ _____ |
| (f) Employee Contributions     | \$ _____ |
| (g) Federal Withholding Tax    | \$ _____ |
| (h) State Withholding Tax      | \$ _____ |
| (i) FICA                       | \$ _____ |
| (j) Sales Tax                  | \$ _____ |
| (k) Other                      | \$ _____ |
| (l) Straight Line Depreciation | \$ _____ |
| Total Expenses                 | \$ _____ |
| 3. Net Income                  | \$ _____ |

**VERIFIER INFORMATION:** Please sign this verification form and print the name, address and telephone number of the verifier.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
 \_\_\_\_\_ Telephone Number: \_\_\_\_\_  
 (Signature)

**WARNING:** Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)

<b>VERIFICATION OF SUPPORT PAYMENTS</b>	
<p><b>REQUEST FOR INFORMATION</b></p> <p>Federal regulations require us to verify financial information provided by applicants for housing assistance. We ask your cooperation in supplying the information requested. The attached Form 3550-1, Borrower's Certification and Authorization provides the applicant's authorization.</p> <p>Your prompt return of the requested information will be appreciated. A self-addressed return envelope is enclosed for your convenience. If you have questions, please call _____ at _____.</p>	
<p><b>APPLICANT IDENTIFICATION</b></p> <p>Name _____ Social Security Number _____</p>	
<p><b>REQUESTED INFORMATION</b></p> <p>Name of Person Paying Support: _____</p> <p>Address: _____            _____            _____</p> <p>For (     ) Former Spouse                              (     ) Children</p> <p>Children Names are:            _____            _____            _____            _____</p> <p>Amount of Support            \$ _____ <input type="checkbox"/> Week, <input type="checkbox"/> Month, <input type="checkbox"/> Year</p>	
<p><b>VERIFIER INFORMATION:</b> Please sign this verification form and print the name, address and telephone number of the verifier.</p> <p>Name: _____ Title: _____            _____ Telephone Number: _____</p> <p>(Signature)</p>	
<p><b>WARNING:</b> Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)</p>	

### CERTIFICATION OF DISPOSITION OF ASSETS

I/we certify that during the two years (24 months) period preceding the effective date of my certification or recertification of eligibility for program participation, I/we \_\_\_\_\_ have \_\_\_\_\_ have not disposed of more than \$1,000 in asset(s) for less than fair market value.

If asset(s) were disposed of for less than fair market value, describe:

Asset	Date of Disposition
1.	
2.	
3.	

The amount received for the asset(s) disposed:

1.

2.

3.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Spouse

\_\_\_\_\_  
Date

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<b>RECORD OF ORAL VERIFICATION</b>	
<b>APPLICANT INFORMATION</b>	
<b>Re:</b> _____ <b>Address:</b> _____ _____ <b>Date Received:</b> _____	
<b>INFORMATION VERIFIED</b>	
Item Verified: _____ Person Contacted: _____ Representing: _____	
<b>INFORMATION SUPPLIED</b>	
_____ Signature of Person Receiving Verification	_____ Date and Time
<b>WARNING:</b> Knowingly and willingly making a false or fraudulent statement to any department of the United States Government is a felony punishable by fine and imprisonment (Title 18, Section 1001, U.S. Code)	

**APPENDIX 3**  
**HANDBOOK LETTERS REFERENCED IN THIS HANDBOOK**

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Handbook Letter 1(3550), Moderate Income Options  
Handbook Letter 2(3550), Pre-eligible  
Handbook Letter 3(3550), Waiting Period  
Handbook Letter 4(3550), Initial Request for Financial Information  
Handbook Letter 5(3550), Followup Request for Financial Information  
Handbook Letter 6(3550), Notification that the Agency Will Continue With Loan  
Handbook Letter 7(3550), Request for Borrower to Refinance With Private Credit  
Handbook Letter 8(3550), Reminder Letter  
Handbook Letter 9(3550), Confirmation of Determination that Borrower Must Refinance  
Handbook Letter 10(3550), Status of Offer to Buy Single Family Housing REO Property  
Handbook Letter 11(3550), Selected for Processing/Request Information  
Handbook Letter 12(3550), Notification of Approval (504 Grant)  
Handbook Letter 13(3550), Notice of Right to Request Copy of Appraisal  
Handbook Letter 14(3550), Final Notification to Submit Information for Refinancing Review  
Handbook Letter 15(3550), Standardized Adverse Decision Letter

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Moderate Income Options

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Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

Information obtained in processing your application for Rural Housing Service (RHS) loan assistance, indicates that your annual household income exceed the maximum low-income limit for this area of \$( *insert the applicable income limit* ). If this information is correct, the following options are available to you in obtaining housing:

1. Sale of Real Estate Owned (REO) Property. This means a sale of a property which is owned by the Government. RHS acquires title to property periodically and have ( *insert the number of properties available* ) properties available for sale at this time.
2. A transfer and assumption of an existing RHS loan. You may assume the unpaid balance of a loan from an RHS borrower whose property is for sale. Equity or repairs can be paid for with:
  - a. a subsequent loan from RHS, if your family income does not exceed the maximum low-income limit for this area and you are otherwise eligible for such a loan; or
  - b. cash provided by you.
3. A Guaranteed Rural Housing loan. If you wish to have the names of the participating lender program, please contact this office at ( *insert field office address* ).
4. Other credit. You may wish to pursue financing through a private lending institution.



Applications for purchase of REO's (Government owned property) and loan transfers are given priority for financing. If you are interested in a specific REO property or loan transfer and believe you can meet the conditions outlined above, you should notify this office within 30 days of receipt of this letter. If we do not hear from you within the specific time from, your application will be withdrawn. Please refer to the attachment to this letter regarding your ability to have the decision further reviewed.

Sincerely,

( insert name of the Loan Originator )

( insert title of the Loan Originator )

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## Handbook Letter 2(3550)

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Pre-eligible

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Date: [ *insert today's date* ][ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ][ *insert applicant(s) street/post office address* ][ *insert city, state, and zip code* ]Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

As this letter explains, the Rural Housing Service (RHS) cannot complete processing your application at this time due to the availability of funds. However, based on a preliminary review of verbal credit and financial information, it appears you may be eligible for loan services from this Agency. The approximate waiting period before funds may be available for your loan request is ( *insert approximate days/months funds will be available* ).

Although applicants may be considered eligible, we are unable to process housing applications at this time due to the lack of available loan funds for households in your income category. Therefore, this is not a final determination of your eligibility. You will be contacted every 6 months to update the status of your application and to determine if you are still in need of assistance. Your failure to respond to a future notice will result in a voluntary withdrawal of your application. **It is extremely important, therefore, to update your address and telephone number if they change.**

When we are in a position to process your application, it will be necessary to make a final determination of eligibility before a loan can be approved. To avoid duplication of work, we will not request a credit report or verify your income until nearer the time when your loan can be processed to conclusion. We will notify you at that time and request to be informed of any changes in your debt structure or employment. In the meantime, it is important that you not anticipate a loan will be made and thereby incur debts for items such as a building site, or the repair, purchase, or construction of a home.

If you are planning to assume the unpaid balance of a loan from an existing RHS borrower or purchase a Government Real Estate Owned (REO) property, you should advise this office. These transactions can be processed without delay. You may also wish to discuss eligibility requirements for the Guaranteed Rural Housing loan.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person on the basis of race, color, religion, sex, age, disability, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. If an applicant or borrower believes that he or she has been discriminated against for any of these reasons, that person can write the Secretary of Agriculture, Washington, D.C. 20250. Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her rights under the Consumer Credit Protection Act. If an applicant believe he or she were denied a loan for this reason, the applicant should contact the Federal Trade Commission, Washington, D.C. 20580.

Sincerely,

[ *insert name of Loan Approval Official* ]

[ *insert title of Loan Approval Official* ]

## Handbook Letter 3(3550)

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Waiting Period

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Date: [ *insert today's date* ]

[ *insert applicant(s) firsts/mi//last name(s) (Mr., Mrs., Ms.)* ]  
[ *insert applicant(s) street/post office address* ]  
[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

The rural housing application that you submitted to the Rural Housing Service (RHS) on [ *insert receipt date* ] remains active.

However, resources are still currently unavailable to fund your loan request. The approximate waiting period is now [ *insert # of months/days* ].

Please complete the enclosed form if you are still interested in RHS assistance and update your current address and telephone number. Your failure to return the enclosed form to this office within 30 days of the date of this letter will result in a voluntary withdrawal of your application. If your application is withdrawn, you may reapply.

The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person on the basis of race, color, religion, sex, age, disability, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. If you believe you have been discriminated against for any of these reasons, you can write the Secretary of Agriculture, Washington, D.C. 20250.

Feel free to contact this office at [ *insert phone number* ] if you have any questions.

Sincerely,

[ *insert name of Loan Approval Official* ]  
[ *insert title of Loan Approval Official* ]

Enclosure

TO: [ *insert name and address of applicable RHS field office* ]

I am still interested in receiving rural housing assistance through the Rural Housing Service (RHS). Please keep my application active. My current address and telephone number are as follows:

Name: \_\_\_\_\_  
(Please print)

Address: \_\_\_\_\_  
(Street/Post Office Address)

\_\_\_\_\_  
(City, State, and Zip Code)

Telephone: \_\_\_\_\_  
(Please include area code)

THIS INFORMATION **HAS** \_\_\_/ **HAS NOT** \_\_\_ CHANGED SINCE YOU LAST CONTACTED ME. (*Please check either "has" or "has not" above.*)

Signed by: \_\_\_\_\_  
Applicant

Date: \_\_\_\_\_

Signed by: \_\_\_\_\_  
Applicant

Date: \_\_\_\_\_

**Note: If you wish to have your application remain on file, please complete this form, sign and date it, then return it to the RHS office processing your loan application. Your response must be received within 30 days from the date on RHS's letter of [ *insert today's date* ].**

\_\_\_\_\_

## Handbook Letter 4(3550)

REFERENCE: Field Office Handbook Chapter 14

SUBJECT: Initial Request for Financial Information

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

Your security instruments with the Rural Housing Service (RHS) state you will refinance the unpaid balance of your RHS loan when you have progressed to the point you can obtain credit from a private lending institution at reasonable rates and terms.

RHS is required to periodically review your loan for possible refinancing to other credit. To evaluate your continued eligibility for RHS assistance we must request certain financial information. Please complete the enclosed financial statement, sign the borrower certification, authorization, and return the documents to the RHS office shown below within 30 days along with recent copies of paystubs from all household members.

(Local RHS address and telephone number)

Please contact the local RHS office if you have any questions. They will be glad to discuss RHS refinancing requirements with you.

Sincerely,

[ *insert name of Loan Approval Official* ]

[ *insert title of Loan Approval Official* ]

---

(05-28-98) SPECIAL PN

Handbook Letter 5(3550)

REFERENCE: Field Office Handbook Chapter 14

SUBJECT: Followup Request for Financial Information

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

This is a followup to the previous letter concerning the refinancing of your Rural Housing Service (RHS) loan. In order to determine if RHS can continue with your loan, we requested current and complete financial information.

If we can assist you in the preparation of the requested information or in answering questions concerning refinancing requirements, please contact us. The telephone number is \_\_\_\_\_.

Please provide us with the required information within 15 days. If you fail to respond to this request you will be in violation of your security instrument and RHS will recommend legal action be taken.

Sincerely,

[ *insert name of Loan Approval Official* ]

[ *insert title of Loan Approval Official* ]

## Handbook Letter 6(3550)

REFERENCE: Field Office Handbook Chapter 14

SUBJECT: Notification that the Agency Will Continue With Loan

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

Thank you for providing the financial information we previously requested.

The financial progress you have made since receiving your Rural Housing Service (RHS) loan has been reviewed. You should take pride in the progress you have made.

Several lenders have been contacted to determine their lending requirements and the availability of credit to new customers. We have evaluated your present financial position and compared it to lender requirements.

At this time, based on RHS's evaluation, it has been determined that you may experience difficulty in obtaining suitable credit from other sources to refinance your RHS loan. For this reason, RHS will continue with your loan and you will not be asked to refinance at this time.

Your loan, however, will remain subject to the refinancing requirement. You may be asked to refinance the balance of your RHS indebtedness at a later date.

Sincerely,

[ *insert name of Loan Approval Official* ]

[ *insert title of Loan Approval Official* ]

---

(05-28-98) SPECIAL PN



## Handbook Letter 7(3550)

REFERENCE: Field Office Handbook Chapter 14

SUBJECT: Request for Borrower to Refinance With Private Credit

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

The financial progress you have made since receiving your Rural Housing Service (RHS) loan has been reviewed. You should take pride in the progress you have made. We share that pride with you and are pleased that we may have been of service.

Your RHS security instruments require you to refinance the unpaid balance of your loan. This is to be done when you have progressed to the extent that you can obtain credit from responsible private lenders.

Lenders have been contacted to determine their requirements and the availability of credit to new customers. We have evaluated your financial progress, together with the lender requirements, and find you should now be able to secure satisfactory credit to pay your RHS loan. Therefore, we request that you refinance your housing loan in full within 90 days from the date of this letter.

The principal and interest balance on your account is approximately \$\_\_\_\_\_. The maximum subsidized assistance which you have received which you may have to pay back is \$\_\_\_\_\_. Payoff information specific to your account may be obtained by calling the Centralized Servicing Center (CSC) at (variable). The CSC can also provide information on deferring recapture of payment subsidies, possible discounts for paying subsidy recapture, and final payments.

We are attaching a list of lenders that you may wish to contact concerning the refinancing of your housing loan.

If you are unable to refinance, you will need to provide this office within 90 days a rejection letter from another lender documenting that you made an earnest effort to seek other credit. The letter should include:

- (1) the name of other lender contacted
- (2) the amount of the loan requested by you and the amount, if any, offered by the lender,
- (3) the rates and terms offered by the lender or the specific reasons why other credit is not available, and
- (4) the purpose of the loan request.

If you wish, an appointment will be arranged to discuss questions you may have. Our telephone number is \_\_\_\_\_. Please see the Attachment for your rights to challenge this decision.

Sincerely,

[ *insert name of Loan Approval Official* ]

[ *insert title of Loan Approval Official* ]

Attachment

[ *include Attachment 1-B or 1-C of Chapter 1, as applicable* ]

---

Handbook Letter 8(3550)

REFERENCE: Field Office Handbook Chapter 14

SUBJECT: Reminder Letter

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

This is a reminder to our previous letter requesting you to refinance your housing within 90 days from (*Insert date of Handbook Letter 7(3550)*).

Payoff information can be obtained by calling the Centralized Servicing Center (variable).

Please contact this office if you have any questions. The telephone number is

\_\_\_\_\_.

Sincerely,

[ *insert name of Loan Approval Official* ]

[ *insert title of Loan Approval Official* ]

Handbook Letter 9(3550)

REFERENCE: Field Office Handbook Chapter 14

SUBJECT: Confirmation of Determination that Borrower Must Refinance

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

This is a followup to our letter requesting you to refinance your Rural Housing Service (RHS) loan.

We have reexamined the financial progress you have made since obtaining your loan based upon the documentation you recently submitted. We have determined other credit appears to be available to you at rates and terms which you can reasonably be expected to pay.

[ *insert reasons why documentation did not support the borrower's request not to refinance* ]

You need to take positive steps to refinance your loan within 90 days from (*Insert date of Handbook Letter 7(3550)*). If you fail to refinance, this office will recommend legal proceedings without further notice.

Please contact this office if we can assist you in arranging other credit. Our telephone number is \_\_\_\_\_. Please see the previous Attachment for your rights to challenge this decision.

Sincerely,

[ *insert name of Loan Approval Official* ]

[ *insert title of Loan Approval Official* ]

## Handbook Letter 10(3550)

REFERENCE: Field Office Handbook Chapter 16

SUBJECT: Status of Offer to Buy Single Family Housing REO Property

Date: [ *insert today's date* ]RE: [ *address of REO property* ][ *insert offeror(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ][ *insert offeror(s) street/post office address* ][ *insert city, state, and zip code* ]Dear [ *insert offeror last name(s) (Mr., Mrs., Ms.)* ]:

Regarding your offer to purchase the above-referenced REO property, please be advised that:

- \_\_\_\_\_ 1. Your offer has been accepted. Please contact this office to discuss proceeding with the transaction.
- \_\_\_\_\_ 2. Another offer has been accepted, however, your offer is being held as a back-up offer.
- \_\_\_\_\_ 3. The property is reserved for exclusive purchase by program applicants for the first 60 days after listing and for 30 days after any reduction in price. Your offer will be considered after this period if no acceptable offer from a program applicant is received.
- \_\_\_\_\_ 4. Your offer could not be accepted for the following reason(s):
  - \_\_\_\_\_ Less than the listed sale price.
  - \_\_\_\_\_ An offer from a program applicant has been accepted.
  - \_\_\_\_\_ Another offer has already been accepted.
  - \_\_\_\_\_ The property is no longer for sale.
  - \_\_\_\_\_ (For back-up offers) The prior offer has been accepted)
- \_\_\_\_\_ 5. The property has been withdrawn from sale.
- \_\_\_\_\_ 6. A previous offer has been canceled. The property has been relisted for sale.
- \_\_\_\_\_ 7. The property has been relisted for sale at the following:  
 Price \$ \_\_\_\_\_  
 Terms: \_\_\_\_\_
- \_\_\_\_\_ 8. Other: \_\_\_\_\_

Please feel free to contact this office if you have any questions regarding this letter. Thank you for your interest in purchasing REO property.

Sincerely,

[ *insert name of Loan Approval Official* ][ *insert title of Loan Approval Official* ]

## Handbook Letter 11(3550)

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Selected for Processing/Request Information

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Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

The application you filed with the Rural Housing Service has now been selected for processing. The following information must be submitted to this office in order to determine your eligibility for loan services:

- ☐ Residential Mortgage Credit Report - In order to request a credit report, it is necessary that you submit a non-refundable credit report fee of \$ ( *insert amount of credit report fee*). You may mail or bring this amount to this office at ( *insert field office address* ). A credit report cannot be ordered until these funds are received in this office.
- ☐ Separation Agreement/Divorce Decree
- ☐ Evidence Child Care Payment
- ☐ Medical Expense(s) Payment(s) Documentation
- ☐ Social Security or Other Retirement Benefits Notice
- ☐ Other \_\_\_\_\_

This letter is to advise you that no action can be taken until all of the above-marked items have been received in this office and that your application will remain in an inactive status until the information is received. Your failure to respond to this request within 30 days of the date of this letter will result in a voluntary withdrawal of your application. If your application is withdrawn, you may reapply.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants based on race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, religion, sex, age, disability, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms and conditions of such a transaction because of race, color, religion, sex, disability, familiar status, or national origin. If an applicant or borrower believes that he or she has been discriminated against for any reasons, that person can write the Secretary of Agriculture, Washington, D.C. 20250. Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her right under the Consumer Credit Protection Act. If an applicant believes he or she was denied a loan for this reason, the applicant should contact the Federal Trade Commission, Washington, D.C. 20580.

Sincerely,

[ *insert name of Rural Development Official* ]

[ *insert title of Rural Development Official* ]





## Handbook Letter 12(3550)

REFERENCE: Field Office Handbook Chapter 12

SUBJECT: Notification of Approval (504 Grant)

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Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

The Rural Housing Service has approved your request for Section 504 Grant assistance in the amount of \$ ( *insert grant amount* ).

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants based on race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person based on race, color, religion, sex, age, disability, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms and conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. If an applicant or borrower believes he or she has been discriminated against for any of these reasons, that person can write the Secretary of Agriculture, Washington, D.C. 20250. Applicants also cannot be denied a loan because the applicant has in good faith exercised his or her rights under the Consumer Credit Protection Act. If an applicant believes he or she was denied a loan for this reason, the applicant should contact the Federal Trade Commission, Washington D.C. 20580.

Sincerely,

[ *insert name of Rural Development Official* ]

[ *insert title of Rural Development Official* ]

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## Handbook Letter 13(3550)

REFERENCE: Field Office Handbook Chapter 3

SUBJECT: Notice of Right to Request Copy of Appraisal

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

You have the right to a copy of the appraisal report used in connection with your application for credit. If you wish a copy, please write us at the address of the Rural Development Field Office where you made application. We must hear from you no later than 90 days after we notify you about the action taken on your credit application or you withdraw your application. The creditor, Rural Housing Service, may require you to reimburse the Agency for the cost of the appraisal.

In your written request, you must provide us with the complete name and address used when making application as well as a current mailing address.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract), or because all or part of the applicant's income derives from any public assistance program. Department of Agriculture regulations provide that no agency, officer, or employee of the United States Department of Agriculture shall exclude from participation in, deny the benefits of, or subject to discrimination any person on the basis of race, color, religion, sex, age, disability, or national origin under any program or activity administered by such agency, officer, or employee. The Fair Housing Act prohibits discrimination in real estate-related transactions, or in the terms or conditions of such a transaction, because of race, color, religion, sex, disability, familial status, or national origin. If you believe you have been discriminated against for any of these reasons, you can write the Secretary of Agriculture, Washington, D.C. 20250.

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Page 2

You also cannot be denied a loan because you, in good faith, exercised your rights under the Consumer Credit Protection Act. If you believe you were denied a loan for this reason, you should contact the Federal Trade Commission, Washington, D.C. 20580.

Sincerely,

[ *insert name of Rural Development Official* ]

[ *insert title of Rural Development Official* ]

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Handbook Letter 14(3550)

REFERENCE: Field Office Handbook Chapter 14

SUBJECT: Final Notification to Submit Information for Refinancing Review

---

Date: [ *insert today's date* ]

[ *insert applicant(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert applicant(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Dear [ *insert applicant last name(s) (Mr., Mrs., Ms.)* ]:

The Rural Housing Service (RHS) has not received complete financial information from you in order to conduct the refinancing review.

Failure to cooperate with this review is a violation of your security instruments. If we do not receive the following information within 15 days from the date of this letter, RHS will pursue liquidation action.

[ LIST INFORMATION THE BORROWER MUST PROVIDE ]

Please contact this office if you have any question. The telephone number is \_\_\_\_\_.

Sincerely,

[ *insert name of Rural Development Official* ]

[ *insert title of Rural Development Official* ]

## Handbook Letter 15(3550)

REFERENCE: Field Office Handbook Chapter 1

SUBJECT: Standardized Adverse Decision Letter

Date: [ *insert today's date* ]

[ *insert borrower(s) first/mi/last name(s) (Mr., Mrs., Ms.)* ]

[ *insert borrower(s) street/post office address* ]

[ *insert city, state, and zip code* ]

Re: [ *Type/Amount of Assistance Requested* ]

Dear [ *insert borrower last name(s) (Mr., Mrs., Ms.)* ]:

Thank you for the opportunity to consider your request for Rural Development assistance. In reviewing your request, we considered all information submitted to the Agency and the regulations that govern the assistance for which you applied. After careful review, we regret to inform you that we were unable to take favorable action on your request. The specific reasons for our decision are as follows:

(The following items should be included in each adverse decision letter and can be presented in different formats depending upon the type of assistance requested and reasons for denial:

- Specific reasons for the decision;
- Regulatory basis (CFR citation) for the decision;
- If applicable, a statement of any evidence considered in making the decision such as credit reports, financial statements, etc.;
- If applicable, a statement of any issues presented by the customer such as those discussed during any meetings or phone conversations; and

If you believe our decision is incorrect, or the facts used in this case are in error, you may pursue your rights to challenge our decision. Please see the attached document.

Sincerely,

[ *insert name of RHS Official* ]

[ *insert title of RHS Official* ]

Attachment [ *insert Attachment 1-B or 1-C, as appropriate from Chapter 1* ]

APPENDIX 4

7 CFR PART 11--NATIONAL APPEALS DIVISION RULES OF PROCEDURE

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Sec.

- 11.1 Definitions.
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- 11.11 Reconsideration of Director determinations.
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the Division.
- 11.13 Judicial review.

#### 11.14 Filing of appeals and computation of time.

Authority: 5 U.S.C. 301; Title II, Subtitle H, Pub. L. 103-354, 108 Stat. 3228 (7 U.S.C. 6991 et seq.); Reorganization Plan No. 2 of 1953 (5 U.S.C. App.).

##### § 11.1 Definitions.

For purposes of this part:

Adverse decision means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant within timeframes specified by agency program statutes or regulations or within a reasonable time if timeframes are not specified in such statutes or regulations. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

Agency means:

- (1) The Agricultural Stabilization and Conservation Service (ASCS);
- (2) The Commodity Credit Corporation (CCC);
- (3) The Farm Service Agency (FSA);
- (4) The Farmers Home Administration (FmHA);
- (5) The Federal Crop Insurance Corporation (FCIC);
- (6) The Natural Resources Conservation Service (NRCS);
- (7) The Rural Business-Cooperative Service (RBS);
- (8) The Rural Development Administration (RDA);
- (9) The Rural Housing Service (RHS);
- (10) The Rural Utilities Service (RUS) (but not for programs authorized by the Rural Electrification Act of 1936 and the Rural Telephone Bank Act, 7 U.S.C. 901 et seq.);

(11) The Soil Conservation Service (SCS);

(12) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)); and

(13) Any successor agency to the above-named agencies, and any other agency or office of the Department which the Secretary may designate.

Agency record means all the materials maintained by an agency related to an adverse decision which are submitted to the Division by an agency for consideration in connection with an appeal under this part, including all materials prepared or reviewed by the agency during its consideration and decision-making process, but shall not include records or information not related to the adverse decision at issue. All materials contained in the agency record submitted to the Division shall be deemed admitted as evidence for purposes of a hearing or a record review under Sec. 11.8.

Agency representative means any person, whether or not an attorney, who is authorized to represent the agency in an administrative appeal under this part.

Appeal means a written request by a participant asking for review by the National Appeals Division of an adverse decision under this part.

Appellant means any participant who appeals an adverse decision in accordance with this part. Unless separately set forth in this part, the term "appellant" includes an authorized representative.

Authorized representative means any person, whether or not an attorney, who is authorized in writing by a participant, consistent with Sec. 11.6(c), to act for the participant in an administrative appeal under this part. The authorized representative may act on behalf of the participant except when the provisions of this part require action by the participant or appellant personally.

Case record means all the materials maintained by the Secretary related to an adverse decision. The case record includes both the agency record and the hearing record.

Days means calendar days unless otherwise specified.

Department means the United States Department of Agriculture (USDA).

Director means the Director of the Division or a designee of the Director.

Division means the National Appeals Division established by this part.



Equitable relief means relief which is authorized under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws administered by the agency.

Ex parte communication means an oral or written communication to any officer or employee of the Division with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports, or inquiries on Division procedure, in reference to any matter or proceeding connected with the appeal involved.

Hearing, except with respect to Sec. 11.5, means a proceeding before the Division to afford a participant the opportunity to present testimony or documentary evidence or both in order to have a previous determination reversed and to show why an adverse determination was in error.

Hearing Officer means an individual employed by the Division who conducts the hearing and determines appeals of adverse decisions by any agency.

Hearing record means all documents, evidence, and other materials generated in relation to a hearing under Sec. 11.8.

Implement means the taking of action by an agency of the Department in order fully and promptly to effectuate a final determination of the Division.

Participant means any individual or entity who has applied for, or whose right to participate in or receive, a payment, loan, loan guarantee, or other benefit in accordance with any program of an agency to which the regulations in this part apply is affected by a decision of such agency. With respect to guaranteed loans made by FSA, both the borrower and the lender jointly must appeal an adverse decision except that the denial or reduction of a final loss payment to a lender shall be appealed by the lender only. The term does not include persons whose claim(s) arise under:

- (1) Programs subject to various proceedings provided for in 7 CFR part 1;
- (2) Programs governed by Federal contracting laws and regulations (appealable under other rules and to other forums, including to the Department's Board of Contract Appeals under 7 CFR part 24);
- (3) The Freedom of Information Act (appealable under 7 CFR part 1, subpart A);

- (4) Suspension and debarment disputes, including, but not limited to, those falling within the scope of 7 CFR parts 1407 and 3017;
- (5) Export programs administered by the Commodity Credit Corporation;
- (6) Disputes between reinsured companies and the Federal Crop Insurance Corporation;
- (7) Tenant grievances or appeals prosecutable under the provisions of 7 CFR part 1944, subpart L, under the multi-family housing program carried out by RHS;
- (8) Personnel, equal employment opportunity, and other similar disputes with any agency or office of the Department which arise out of the employment relationship;
- (9) The Federal Tort Claims Act, 28 U.S.C. 2671 et seq., or the Military Personnel and Civilian Employees Claims Act of 1964, 31 U.S.C. 3721; or
- (10) Discrimination complaints prosecutable under the nondiscrimination regulations at 7 CFR parts 15, 15a, 15b, and 15e.

Record review means an appeal considered by the Hearing Officer in which the Hearing Officer's determination is based on the agency record and other information submitted by the appellant and the agency, including information submitted by affidavit or declaration.

Secretary means the Secretary of Agriculture.

#### § 11.2 General statement.

(a) This part sets forth procedures for proceedings before the National Appeals Division within the Department. The Division is an organization within the Department, subject to the general supervision of and policy direction by the Secretary, which is independent from all other agencies and offices of the Department, including Department officials at the state and local level. The Director of the Division reports directly to the Secretary of Agriculture.

The authority of the Hearing Officers and the Director of the Division, and the administrative appeal procedures which must be followed by program participants who desire to appeal an adverse decision and by the agency which issued the adverse decision, are included in this part.

(b) Pursuant to section 212(e) of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Public Law 103-354 (the Act), 7 U.S.C. 6912(e), program participants shall seek review of an adverse decision before a Hearing Officer of the Division, and may seek further review by the Director, under the provisions of this part prior to seeking judicial review.

### § 11.3 Applicability.

(a) Subject matter. The regulations contained in this part are applicable to adverse decisions made by an agency, including, for example, those with respect to:

- (1) Denial of participation in, or receipt of benefits under, any program of an agency;
- (2) Compliance with program requirements;
- (3) The making or amount of payments or other program benefits to a participant in any program of an agency; and
- (4) A determination that a parcel of land is a wetland or highly erodible land.

(b) Limitation. The procedures contained in this part may not be used to seek review of statutes or USDA regulations issued under Federal law.

### § 11.4 Inapplicability of other laws and regulations.

The provisions of the Administrative Procedure Act generally applicable to agency adjudications (5 U.S.C. 554, 555, 556, 557, & 3105) are not applicable to proceedings under this part. The Equal Access to Justice Act, as amended, 5 U.S.C. 504, does not apply to these proceedings. The Federal Rules of Evidence, 28 U.S.C. App., shall not apply to these proceedings.

§ 11.5 Informal review of adverse decisions.

(a) Required informal review of FSA adverse decisions. A participant must seek an informal review of an adverse decision issued at the field service office level by an officer or employee of FSA, or by any employee of a county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act, 16 U.S.C. 590h(b)(5), before NAD will accept an appeal of an FSA adverse decision. Such informal review shall be done by the county or area committee with responsibility for the adverse decision at issue. The procedures for requesting such an informal review before FSA are found in 7 CFR part 780. After receiving a decision upon review by a county or area committee, a participant may seek further informal review by the State FSA committee or may appeal directly to NAD under Sec. 11.6(b).

(b) Optional informal review. With respect to adverse decisions issued at the State office level of FSA and adverse decisions of all other agencies, a participant may request an agency informal review of an adverse decision of that agency prior to appealing to NAD. Procedures for requesting such an informal review are found at 7 CFR part 780 (FSA), 7 CFR part 614 (NRCS), 7 CFR part 1900, subpart B (RUS), 7 CFR part 1900, subpart B (RBS), and 7 CFR part 1900, subpart B (RHS).

(c) Mediation. A participant also shall have the right to utilize any available alternative dispute resolution (ADR) or mediation program, including any mediation program available under title V of the Agriculture Credit Act of 1987, 7 U.S.C. 5101 et seq., in order to attempt to seek resolution of an adverse decision of an agency prior to a NAD hearing. If a participant:

(1) Requests mediation or ADR prior to filing an appeal with NAD, the participant stops the running of the 30-day period during which a participant may appeal to NAD under Sec. 11.6(b)(1), and will have the balance of days remaining in that period to appeal to NAD once mediation or ADR has concluded.

(2) Requests mediation or ADR after having filed an appeal to NAD under Sec. 11.6(b), but before the hearing, the participant will be deemed to have waived his right to have a hearing within 45 days under Sec. 11.8(c)(1) but shall have the right to have a hearing within 45 days after conclusion of mediation or ADR.

§ 11.6 Director review of agency determination of appealability and right of participants to Division hearing.

(a) Director review of agency determination of appealability.

(1) Not later than 30 days after the date on which a participant receives a determination from an agency that an agency decision is not appealable, the participant must submit a written request to the Director to review the determination in order to obtain such review by the Director.

(2) The Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal, and will issue a final determination notice that upholds or reverses the determination of the agency. This final determination is not appealable. If the Director reverses the determination of the agency, the Director will notify the participant and the agency of that decision and inform the participant of his or her right to proceed with an appeal.

(3) The Director may delegate his or her authority to conduct a review under this subsection to any subordinate official of the Division other than a Hearing Officer. In any case in which such review is conducted by such a subordinate official, the subordinate official's determination shall be considered to be the determination of the Director and shall be final and not appealable.

(b) Appeals of adverse decisions.

(1) To obtain a hearing under Sec. 11.8, a participant personally must request such hearing not later than 30 days after the date on which the participant first received notice of the adverse decision or after the date on which the participant receives notice of the Director's determination that a decision is appealable. In the case of the failure of an agency to act on the request or right of a recipient, a participant personally must request such hearing not later than 30 days after the participant knew or reasonably should have known that the agency had not acted within the timeframes specified by agency program regulations, or, where such regulations specify no timeframes, not later than 30 days after the participant reasonably should have known of the agency's failure to act.

(2) A request for a hearing shall be in writing and personally signed by the participant, and shall include a copy of the adverse decision to be reviewed, if available, along with a brief statement of the participant's reasons for believing that the decision, or the agency's failure to act, was wrong. The participant also shall send a copy of the request for a hearing to the agency, and may send a copy of the adverse decision to be reviewed to the agency, but failure to do either will not constitute grounds for dismissal of the appeal. Instead of a hearing, the participant may request a record review.

(c) If a participant is represented by an authorized representative, the authorized representative must file a declaration with NAD, executed in accordance with 28 U.S.C. 1746, stating that the participant has duly authorized the declarant in writing to represent the participant for purposes of a specified adverse decision or decisions, and attach a copy of the written authorization to the declaration.

#### § 11.7 Ex parte communications.

(a) Ex parte communications.

(1) At no time between the filing of an appeal and the issuance of a final determination under this part shall any officer or employee of the Division engage in ex parte communications regarding the merits of the appeal with any person having any interest in the appeal pending before the Division, including any person in an advocacy or investigative capacity. This prohibition does not apply to:

(i) Discussions of procedural matters related to an appeal; or

(ii) Discussions of the merits of the appeal where all parties to the appeal have been given notice and an opportunity to participate.

(2) In the case of a communication described in paragraph (a)(1)(ii) of this section, a memorandum of any such discussion shall be included in the hearing record.

(b) No interested person shall make or knowingly cause to be made to any officer or employee of the Division an ex parte communication relevant to the merits of the appeal.

(c) If any officer or employee of the Division receives an ex parte communication in violation of this section, the one who receives the communication shall place in the hearing record:

- (1) All such written communications;
- (2) Memoranda stating the substance of all such oral communications; and
- (3) All written responses to such communications, and memoranda stating the substance of any oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section the Hearing Officer or Director may, to the extent consistent with the interests of justice and the policy of the underlying program, require the party to show cause why such party's claim or interest in the appeal should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

#### § 11.8 Division hearings.

##### (a) General rules.

(1) The Director, the Hearing Officer, and the appellant shall have access to the agency record of any adverse decision appealed to the Division for a hearing. Upon request by the appellant, the agency shall provide the appellant a copy of the agency record.

(2) The Director and Hearing Officer shall have the authority to administer oaths and affirmations, and to require, by subpoena, the attendance of witnesses and the production of evidence. A Hearing Officer shall obtain the concurrence of the Director prior to issuing a subpoena.

(i) A subpoena requiring the production of evidence may be requested and issued at any time while the case is pending before the Division.

(ii) An appellant or an agency, acting through any appropriate official, may request the issuance of a subpoena requiring the attendance of a witness by submitting such a request in writing at least 14 days before the scheduled date of a hearing. The Director or Hearing Officer shall issue a subpoena at least 7 days prior to the scheduled date of a hearing.

(iii) A subpoena shall be issued only if the Director or a Hearing Officer determines that:

(A) For a subpoena of documents, the appellant or the agency has established that production of documentary evidence is necessary and is reasonably calculated to lead to information which would affect the final determination or is necessary to fully present the case before the Division; or

(B) For a subpoena of a witness, the appellant or the agency has established that either a representative of the Department or a private individual possesses information that is pertinent and necessary for disclosure of all relevant facts which could impact the final determination, that the information cannot be obtained except through testimony of the person, and that the testimony cannot be obtained absent issuance of a subpoena.

(iv) The party requesting issuance of a subpoena shall arrange for service. Service of a subpoena upon a person named therein may be made by registered or certified mail, or in person. Personal service shall be made by personal delivery of a copy of the subpoena to the person named therein by any person who is not a party and who is not less than 18 years of age. Proof of service shall be made by filing with the Hearing Officer or Director who issued the subpoena a statement of the date and manner of service and of the names of the persons served, certified by the person who made the service in person or by return receipts for certified or registered mail.

(v) A party who requests that a subpoena be issued shall be responsible for the payment of any reasonable travel and subsistence costs incurred by the witness in connection with his or her appearance and any fees of a person who serves the subpoena in person. The Department shall pay the costs associated with the appearance of a Department employee whose role as a witness arises out of his or her performance of official duties, regardless of which party requested the subpoena. The failure to make payment of such charges on demand may be deemed by the Hearing Officer or Director as sufficient ground for striking the testimony of the witness and the evidence the witness has produced.



(vi) If a person refuses to obey a subpoena, the Director, acting through the Office of the General Counsel of the Department and the Department of Justice, may apply to the United States District Court in the jurisdiction where that person resides to have the subpoena enforced as provided in the Federal Rules of Civil Procedure (28 U.S.C. App.).

(3) Testimony required by subpoena pursuant to paragraph (a)(2) of this section may, at the discretion of the Director or a Hearing Officer, be presented at the hearing either in person or telephonically.

(b) Hearing procedures applicable to both record review and hearings.

(1) Upon the filing of an appeal under this part of an adverse decision by any agency, the agency promptly shall provide the Division with a copy of the agency record. If requested by the appellant prior to the hearing, a copy of such agency record shall be provided to the appellant by the agency within 10 days of receipt of the request by the agency.

(2) The Director shall assign the appeal to a Hearing Officer and shall notify the appellant and agency of such assignment. The notice also shall advise the appellant and the agency of the documents required to be submitted under paragraph (c)(2) of this section, and notify the appellant of the option of having a hearing by telephone.

(3) The Hearing Officer will receive evidence into the hearing record without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made.

(c) Procedures applicable only to hearings.

(1) Upon a timely request for a hearing under Sec. 11.6(b), an appellant has the right to have a hearing by the Division on any adverse decision within 45 days after the date of receipt of the request for the hearing by the Division.

(2) The Hearing Officer shall set a reasonable deadline for submission of the following documents:

(i) By the appellant:

(A) A short statement of why the decision is wrong;

(B) A copy of any document not in the agency record that the appellant anticipates introducing at the hearing; and

(C) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(ii) By the agency:

(A) A copy of the adverse decision challenged by the appellant;

(B) A written explanation of the agency's position, including the regulatory or statutory basis therefor;

(C) A copy of any document not in the agency record that the agency anticipates introducing at the hearing; and

(D) A list of anticipated witnesses and brief descriptions of the evidence such witnesses will offer.

(3) Not less than 14 days prior to the hearing, the Division must provide the appellant, the authorized representative, and the agency a notice of hearing specifying the date, time, and place of the hearing. The hearing will be held in the State of residence of the appellant, as determined by the Hearing Officer, or at a location that is otherwise convenient to the appellant, the agency, and the Division. The notice also shall notify all parties of the right to obtain an official record of the hearing.

(4) Pre-hearing conference. Whenever appropriate, the Hearing Officer shall hold a pre-hearing conference in order to attempt to resolve the dispute or to narrow the issues involved. Such pre-hearing conference shall be held by telephone unless the Hearing Officer and all parties agree to hold such conference in person.

(5) Conduct of the hearing.

(i) A hearing before a Hearing Officer will be in person unless the appellant agrees to a hearing by telephone.

(ii) The hearing will be conducted by the Hearing Officer in the manner determined by the Division most likely to obtain the facts relevant to the matter or matters at issue. The Hearing Officer will allow the presentation of evidence at the hearing by any party without regard to whether the evidence was known to the officer, employee, or committee of the agency making the adverse decision at the time the adverse decision was made. The Hearing Officer may confine the presentation of facts and evidence to pertinent matters and exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions. Any party shall have the opportunity to present oral and documentary evidence, oral testimony of witnesses, and arguments in support of the party's position; controvert evidence relied on by any other party; and question all witnesses. When appropriate, agency witnesses requested by the appellant will be made available at the hearing. Any evidence may be received by the Hearing Officer without regard to whether that evidence could be admitted in judicial proceedings.

(iii) An official record shall be made of the proceedings of every hearing. This record will be made by an official tape recording by the Division. In addition, either party may request that a verbatim transcript be made of the hearing proceedings and that such transcript shall be made the official record of the hearing. The party requesting a verbatim transcript shall pay for the transcription service, shall provide a certified copy of the transcript to the Hearing Officer free of charge, and shall allow any other party desiring to purchase a copy of the transcript to order it from the transcription service.

(6) Absence of parties.

(i) If at the time scheduled for the hearing either the appellant or the agency representative is absent, and no appearance is made on behalf of such absent party, or no arrangements have been made for rescheduling the hearing, the Hearing Officer has the option to cancel the hearing unless the absent party has good cause for the failure to appear. If the Hearing Officer elects to cancel the hearing, the Hearing Officer may:

(A) Treat the appeal as a record review and issue a determination based on the agency record as submitted by the agency and the hearing record developed prior to the hearing date;

(B) Accept evidence into the hearing record submitted by any party present at the hearing, and then issue a determination; or

(C) Dismiss the appeal.

(ii) When a hearing is cancelled due to the absence of a party, the Hearing Officer will add to the hearing record any additional evidence submitted by any party present, provide a copy of such evidence to the absent party or parties, and allow the absent party or parties 10 days to provide a response to such additional evidence for inclusion in the hearing record.

(iii) Where an absent party has demonstrated good cause for the failure to appear, the Hearing Officer shall reschedule the hearing unless all parties agree to proceed without a hearing.

(7) Post-hearing procedure. The Hearing Officer will leave the hearing record open after the hearing for 10 days, or for such other period of time as the Hearing Officer shall establish, to allow the submission of information by the appellant or the agency, to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised at the hearing. Any such new information will be added by the Hearing Officer to the hearing record and sent to the other party or parties by the submitter of the information. The Hearing Officer, in his or her discretion, may permit the other party or parties to respond to this post-hearing submission.

(d) Interlocutory review. Interlocutory review by the Director of rulings of a Hearing Officer are not permitted under the procedures of this part.

(e) Burden of proof. The appellant has the burden of proving that the adverse decision of the agency was erroneous by a preponderance of the evidence.

(f) Timing of issuance of determination. The Hearing Officer will issue a notice of the determination on the appeal to the named appellant, the authorized representative, and the agency not later than 30 days after a hearing or the closing

date of the hearing record in cases in which the Hearing Officer receives additional evidence from the agency or appellant after a hearing. In the case of a record review, the Hearing Officer will issue a notice of determination within 45 days of receipt of the appellant's request for a record review. Upon the Hearing Officer's request, the Director may establish an earlier or later deadline. A notice of determination shall be accompanied by a copy of the procedures for filing a request for Director review under Sec. 11.9. If the determination is not appealed to the Director for review under Sec. 11.9, the notice provided by the Hearing Officer shall be considered to be a notice of a final determination under this part.

§ 11.9 Director review of determinations of Hearing Officers.

(a) Requests for Director review.

(1) Not later than 30 days after the date on which an appellant receives the determination of a Hearing Officer under Sec. 11.8, the appellant must submit a written request, signed personally by the named appellant, to the Director to review the determination in order to be entitled to such review by the Director. Such request shall include specific reasons why the appellant believes the determination is wrong.

(2) Not later than 15 business days after the date on which an agency receives the determination of a Hearing Officer under Sec. 11.8, the head of the agency may make a written request that the Director review the determination. Such request shall include specific reasons why the agency believes the determination is wrong, including citations of statutes or regulations that the agency believes the determination violates. Any such request may be made by the head of an agency only, or by a person acting in such capacity, but not by any subordinate officer of such agency.

(3) A copy of a request for Director review submitted under this paragraph (a) shall be provided simultaneously by the submitter to each party to the appeal.

(b) Notification of parties. The Director promptly shall notify all parties of receipt of a request for review.

(c) Responses to request for Director review. Other parties to an appeal may submit written responses to a request for Director review within 5 business days from the date of receipt of a copy of the request for review.

(d) Determination of Director.

(1) The Director will conduct a review of the determination of the Hearing Officer using the agency record, the hearing record, the request for review, any responses submitted under paragraph (c) of this section, and such other arguments or information as may be accepted by the Director, in order to determine whether the decision of the Hearing Officer is supported by substantial evidence. Based on such review, the Director will issue a final determination notice that upholds, reverses, or modifies the determination of the Hearing Officer. The Director's determination upon review of a Hearing Officer's decision shall be considered to be the final determination under this part and shall not be appealable. However, if the Director determines that the hearing record is inadequate or that new evidence has been submitted, the Director may remand all or a portion of the determination to the Hearing Officer for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing.

(2) The Director will complete the review and either issue a final determination or remand the determination not later than--

(i) 10 business days after receipt of the request for review, in the case of a request by the head of an agency; or

(ii) 30 business days after receipt of the request for review, in the case of a request by an appellant.

(3) In any case or any category of cases, the Director may delegate his or her authority to conduct a review under this section to any Deputy or Associate Directors of the Division. In any case in which such review is conducted by a Deputy or Associate Director under authority delegated by the Director, the Deputy or Associate Director's determination shall be considered to be the determination of the Director under this part and shall be final and not appealable.

(e) Equitable relief. In reaching a decision on an appeal, the Director shall have the authority to grant equitable relief under this part in the same manner and to the same extent as such authority is provided an agency under applicable laws and regulations.

§ 11.10 Basis for determinations.

- (a) In making a determination, the Hearing Officers and the Director are not bound by previous findings of facts on which the agency's adverse decision was based.
- (b) In making a determination on the appeal, Hearing Officers and the Director shall ensure that the decision is consistent with the laws and regulations of the agency, and with the generally applicable interpretations of such laws and regulations.
- (c) All determinations of the Hearing Officers and the Director must be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate under the applicable agency program laws and regulations.

§ 11.11 Reconsideration of Director determinations.

- (a) Reconsideration of a determination of the Director may be requested by the appellant or the agency within 10 days of receipt of the determination. The Director will not consider any request for reconsideration that does not contain a detailed statement of a material error of fact made in the determination, or a detailed explanation of how the determination is contrary to statute or regulation, which would justify reversal or modification of the determination.
- (b) The Director shall issue a notice to all parties as to whether a request for reconsideration meets the criteria in paragraph (a) of this section. If the request for reconsideration meets such criteria, the Director shall include a copy of the request for reconsideration in the notice to the non-requesting parties to the appeal. The non-requesting parties shall have 5 days from receipt of such notice from the Director to file a response to the request for reconsideration with the Director.
- (c) The Director shall issue a decision on the request for reconsideration within 5 days of receipt of responses from the non-requesting parties. If the Director's decision upon reconsideration reverses or modifies the final determination of the Director rendered under Sec. 11.9(d), the Director's decision on reconsideration will become the final determination of the Director under Sec. 11.9(d) for purposes of this part.

§ 11.12 Effective date and implementation of final determinations of the Division.

(a) On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

(b) A final determination will be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable under the applicable agency program statutes or regulations.

§ 11.13 Judicial review.

(a) A final determination of the Division shall be reviewable and enforceable by any United States District Court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

(b) An appellant may not seek judicial review of any agency adverse decision appealable under this part without receiving a final determination from the Division pursuant to the procedures of this part.

§ 11.14 Filing of appeals and computation of time.

(a) An appeal, a request for Director review, or any other document will be considered ``filed" when delivered in writing to the Division, when postmarked, or when a complete facsimile copy is received by the Division.

(b) Whenever the final date for any requirement of this part falls on a Saturday, Sunday, Federal holiday, or other day on which the Division is not open for the transaction of business during normal working hours, the time for filing will be extended to the close of business on the next working day.

(c) The time for filing an appeal, a request for Director review, or any other document expires at 5:00 p.m. local time at the office of the Division to which the filing is submitted on the last day on which such filing may be made.



**INSTRUCTIONS FOR APPENDIX 5:  
APPRAISAL GUIDELINES**

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At the current time, appraisal guidelines are being rewritten. In the interim, please refer to RD  
Instruction 1922-C.

**INSTRUCTIONS FOR APPENDIX 7:**  
**STATE SUPPLEMENTS**

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Please refer to State Supplements.

## APPENDIX 8

### SECTION 306C WWD GRANTS TO INDIVIDUALS

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**I. GENERAL.** This appendix sets forth the policies and procedures for making initial and subsequent Water and Waste Disposal (WWD) grants to individuals authorized by Section 306C(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(c)), as amended. The objective of the Section 306C WWD individual grant program is to facilitate the use of community water and/or waste disposal systems by the residents of colonias along the U.S./Mexico border. WWD grants are processed similarly to Section 504 grants, except as modified by this appendix.

**II. DEFINITIONS.** The following definitions apply to this appendix.

(a) **Colonia.** Any identifiable community designated in writing by the State or county in which it is located; determined to be a colonia on the basis of objective criteria including lack of potable water supply, lack of adequate sewage systems, lack of decent, safe, and sanitary housing, and inadequate roads and drainage; and existed and was generally recognized as a colonia before October 1, 1989.

(b) **Individual.** Resident of a colonia located in a rural area.

(c) **Rural areas.** Includes unincorporated areas and any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States.

(d) **System.** A community or central water supply or waste disposal system.

**III. GRANT PURPOSES.** Grant funds may be used to pay the reasonable costs for individuals to:

(a) Extend service lines from the system to a residence;

(b) Connect service lines to a residence's plumbing;

(c) Pay reasonable charges or fees for connecting to a system;

(d) Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities (this is limited to one bath tub, sink, commode, kitchen sink, water heater, and outside spigot); and

(e) Construct and/or partition off a portion of the dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.

#### IV. GRANT RESTRICTIONS

(a) **Maximum grant**

- (1) Maximum grant to any individual for water service lines, connections, and/or construction of a bathroom is \$3,500.
- (2) Maximum grant to any individual for sewer service lines, connections, and/or construction of a bathroom is \$4,000.
- (3) Lifetime assistance to any individual for initial or subsequent Section 306C WWD grants may not exceed a cumulative total of \$5,000.
- (4) Document the amount of assistance provided each grantee on a list of Section 306C WWD recipients and retain it in the office operational file. Maintenance of the list will permit destruction of closed Section 306C WWD assistance case folders as prescribed in §2033.10(b)(4)(i) of RD Instruction 2033-A. The list must include the following information recorded at the time a Section 306C WWD grant is made:
  - (i) Grantee name, address, and case number;
  - (ii) Name of co-grantees, if any;
  - (iii) Amount of the grant; and
  - (iv) Date grant was made.

(b) **Limitation on use of grant funds.** Section 306C WWD grant funds *may not* be used to:

- (1) Pay any debt of obligation of the grantee other than obligations incurred for items listed in Section III of this appendix;
- (2) Pay individuals for their own labor; or
- (3) Pay costs that are not considered reasonable by the Agency.

#### V. ELIGIBILITY REQUIREMENTS. Section 306C WWD applicants must meet the following requirements (applicants need not be age 62 or older):

- (a) Own a dwelling located in a colonia and must present evidence of ownership (see Chapter 12 for requirements).

- (b) Have a total taxable income based on the latest Federal income tax form from all individuals residing in the household that is below the most recent poverty income guidelines established by the Department of Health and Human Services; and
- (c) Must not be delinquent on any Federal debt.

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**INSTRUCTIONS FOR APPENDIX 9:  
HUD INCOME LIMITS**

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When the HUD income limits arrive from the State Office, copy the relevant page or pages, and insert them here for easy reference.

**INSTRUCTIONS FOR APPENDIX 10:**  
**SECTION 203(b) LIMITS**

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When the HUD section 203(b) limits arrive from the State Office, copy the relevant page or pages, and insert them here for easy reference.

# APPENDIX 11

## NET RECOVERY VALUE WORKSHEET

<b>I. BACKGROUND</b>	
(1) Case Number:	(2) Borrower Name/ID
(3) Proposed Liquidation Option:	(4) Calculation Date:
(5) Estimated Holding Period <sup>1</sup> :	
<b>II. CALCULATION OF NET RECOVERY VALUE</b>	
(6) Market Value (use current appraisal)	(6)
(7) Deductions from Market Value <div style="margin-left: 40px;"> A. Prior liens to be paid by the Agency \$ _____  B. Junior liens to be paid by Agency (N/A for foreclosures) \$ _____  C. Selling expenses to be paid by Agency<sup>2</sup> \$ _____  D. Holding costs<sup>3</sup> \$ _____  E. Depreciation During Holding Period \$ _____  F. Administrative Costs<sup>4</sup> \$ _____  G. Management Costs<sup>5</sup> \$ _____  H. Total Reductions (sum of items 7A through 7G) \$ _____ </div>	
(8) Additions to Present Market Value <div style="margin-left: 40px;"> A. Appreciation during holding period \$ _____  B. Income during holding period \$ _____  C. Total Additions (sum of items 8A and 8B) \$ _____ </div>	
(9) NET RECOVERY VALUE (6 <u>minus</u> Item 7G <u>plus</u> Item 8C)	

<sup>1</sup> To calculate holding period use number of months from calculation to:

- filing the release, for release of valueless lien
- closing of new loan and payoff, for refinancing
- closing of loan or transfer and assumption, for sales
- filing warranty deed for deed-in-lieu of foreclosure
- payoff and release for debt settlement offer subsequent to acceleration
- filing of deed and expiration of redemption rights, for foreclosures
- plus the time for marketing and disposition, if acquired

<sup>2</sup> Selling expenses; advertising, commissions for selling agents, required seller certifications, surveys, points, closing costs if to be paid by RHS.

<sup>3</sup> Holding costs: monthly interest accrual multiplied by number of months in the holding period.

<sup>4</sup> Administrative costs: costs of liquidation, including Attorney and other fees, such as filing, recordation, advertising, document service that are customarily incurred in a liquidation or foreclosure action and payment of prior liens.

<sup>5</sup> Management Costs: cost of cleaning, securing and maintaining the property during the holding period, including utilities, real estate taxes and other assessments accruing for custodial or REO properties.

# **GUIDANCE FOR THE EVALUATION AND CONTROL OF LEAD-BASED PAINT HAZARDS**

**NOTE:** This Guidance does not implement Sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, Title X of the Housing and Community Development Act of 1992 (P.L. 102-550), enacted October 28, 1992.

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# LEAD-BASED PAINT

## *I. General*

Lead-based paint poisoning is a national health problem which particularly affects children under the age of six. Lead poisoning also poses a particular risk to pregnant women. Federal law limits the content of lead in paint under certain conditions and requires the elimination of the hazards of lead-based paint poisoning in all Agency inventory properties prior to the sale of such properties when their use is or will be for residential habitation.

The following sections prescribes the Agency's policy, methods and responsibilities associated with lead-based paint. Employee protection requirements for construction workers exposed to lead while working on residential structures and non residential structures such as water and fuel storage tanks, bridges, etc are referenced. Finally, air quality standards for protecting the environment while eliminating lead-based paint hazards from non residential structures are also referenced.

## *II. Definitions*

**Abatement.** Any measure designed to permanently eliminate lead-based paint hazards in accordance with standards established by the EPA Administrator pursuant to Title IV of the Toxic Substances Control Act (TSCA). Abatement strategies include: removal of lead-based paint; encapsulation of lead-based paint (with a product that has been shown to meet standards established or recognized pursuant to Title IV of TSCA); replacement of building components coated by lead-based paint; removal of lead-contaminated dust; removal or covering of lead-contaminated soil; as well as all preparation, cleanup, disposal, post-abatement clearance testing, record-keeping, and ongoing monitoring (if applicable).

**Agency official.** Unless otherwise designated by the State Director, the loan officer with primary responsibilities for processing/servicing the loan/grant/contracts in question.

**Defective Paint Surface.** A surface on which paint is loose, i.e. the paint is cracking, scaling, chipping, or peeling.

**Encapsulation.** Resurfacing or covering surfaces and sealing or caulking the surface with durable materials, so as to prevent or control chalking, flaking, or lead-containing substances from becoming part of house dust or accessible to children. The covering material may be rigid, such as gypsum board or paneling, or it may be a liquid that dries into a durable flexible coating. Paint is not an acceptable encapsulant.

**HEPA.** A high efficiency particle air filter, as used in lead-abatement vacuum cleaners.

**Housing proposed for financial assistance.** Any house, apartment, or structure intended for human habitation that is the subject of an application for financial assistance from the Agency. This includes any residential unit constructed before 1978, except 1) those developed specifically for the elderly or persons with disabilities where no child less than 6 years of age will reside in the dwelling, and 2) any dwelling with no bedrooms.

**Lead-based paint:**

(1) A paint or other surface coating that contains a lead content of 1.0 mg/cm<sup>2</sup> as measured by an x-ray fluorescence XRF detector. When using chemical testing the action level is either 0.5% by weight or 1.0 mg/cm<sup>2</sup>.

(2) With respect to paint manufactured after June 22, 1977, lead-based paint means any paint containing more than six one-hundredths of 1 percent lead by weight.

**Misted scraping.** The surface to be scraped and the scraping tool are kept wet with water during the removal process to minimize the dispersal of paint chips and air-born dust.

**Paint removal.** A strategy of abatement that entails removing paint from the surfaces of building components.

**Replacement.** A strategy of abatement that entails the removal of building components, such as windows, doors, and trim, that have lead-based paint surfaces and the installation of new components, free of lead-based paint.

### ***III. Requirements for Residential Structures.***

The Agency shall not use or permit the use of lead-based paint on surfaces of any housing or buildings built, purchased, repaired, or rehabilitated for human habitation with financial assistance provided by the Agency.

Contracting officers and Agency officials shall include "Lead-Based Paint Prohibition," of Exhibit H of FmHA Instruction 1924-A in all contracts and subcontracts for construction and/or rehabilitation of residential dwellings.

#### **A. EXISTING RESIDENTIAL STRUCTURES.**

For all existing residential buildings proposed for financial assistance built before 1978, the Agency requires that the applicant, borrower and/or tenant be notified pursuant to III.D. below.

#### **B. AGENCY-OWNED RESIDENTIAL STRUCTURES (INVENTORY PROPERTIES).**

This subsection implements the provisions of section 302 of the Lead-Based Paint Poisoning Prevention Act which directs the Administrator to establish and implement procedures to eliminate the hazards of lead-based paint poisoning in all Agency-owned properties when their use is intended for residential habitation.

1. All applicable surfaces of residential structures constructed prior to 1978 shall be inspected in accordance with III.E. to determine whether defective paint surfaces exist
2. Treatment necessary to eliminate hazards of lead-based paint shall be in accordance with III.F.
3. Prospective purchasers are provided all notifications described in III.D.

### **C. INSPECTIONS FOR DEFECTIVE SURFACES.**

Appropriate provisions for the inspection of applicable surfaces and elimination of hazards shall be included in contracts and subcontracts for construction or rehabilitation of buildings or housing proposed for financial assistance. See section III.E.

### **D. NOTIFICATIONS**

Notifications to Purchasers, Renters and Tenants of Housing Proposed for Financial Assistance Constructed Prior to 1978.

1. Prospective purchasers, tenants or renters shall receive a notification document prior to purchase or rental of housing subject to financial assistance. This will be accomplished by providing each applicant, borrower, renter and/or tenant with a copy of Attachment 1 of Exhibit H of 1924-A, "Warning - Hazards of Lead-Based Paint," available in any Agency office or a copy of the EPA/CPSC/HUD pamphlet title "Protect Your Family From Lead in Your Home."
2. The loan docket will contain documentation that the required notification has been received by purchasers and tenants of housing receiving financial assistance constructed prior to 1978.
3. Contracts of sale, rental and management of housing proposed for financial assistance will contain provisions to insure that purchasers and tenants receive the required notification.

### **E. ELIMINATION OF LEAD-BASED PAINT HAZARDS.**

1. This subsection establishes procedures to eliminate, as far as practicable, the hazards of lead-based paint poisoning with respect to any existing housing which may present such hazards. All surface tests and treatment work shall be done by a person or laboratory certified for correcting lead-based paint hazards. The following minimum requirements apply:

a. All painted surfaces of inventory properties or housing proposed for financial assistance constructed prior to 1978 shall be inspected to determine whether defective paint surfaces exist before loan approval. All defective paint surfaces shall be assumed to be immediate hazards.

b. Defective paint surfaces must either:

(i) Be tested for lead content and, if found to contain lead at concentrations equal to or exceeding levels specified in III.E.1.c. of this section, treated as described in III.E.1.d. and III.F. this section. Defective paint surfaces that do not contain lead-based paint do not require treatment; or

(ii) Be abated, if defective paint surfaces are not tested. If not tested, the presence of lead-based paint shall be assumed.

c. If defective paint surfaces are tested, testing shall be accomplished by using a portable X-ray fluorescence (XRF) analyzer or by laboratory analysis of paint samples, whichever is more cost effective. Abatement as described in paragraphs III.E.1.d. and III.F. is required of all defective paint surfaces for which test results equal or exceed 1.0 milligram of lead per square centimeter of paint surface. If the laboratory reports the test results in percent by weight, the standard shall be 0.5 percent or 5000 parts per million (PPM). A certified inspector or laboratory shall provide in writing the precise results of the testing.

d. Lead-based paint abatement can create lead dust that is dangerous to workers and occupants, especially small children. Abatement should be performed only by workers who are trained in managing lead hazards and are properly protected. Abatement should not be undertaken by home craftsmen, even very skilled ones, or untrained construction professionals. The generation and control of dust must be carefully considered when selecting the abatement method. Dust caused by abatement shall be contained within the work area and shall not be allowed to spread to adjacent space or the soil.

#### **F. ACCEPTABLE METHODS OF TREATMENT AND/OR ABATEMENT.**

Acceptable methods of treatment and/or abatement are encapsulation, paint removal, or replacement of painted building components. Acceptable methods of paint removal are misted scraping, scraping with an infrared or coil-type heat gun, and chemical stripping on- or off-site. Unacceptable methods of abatement include dry unassisted scraping; machine sanding and use of propane or gasoline torches (open flame methods); and washing and repainting without first thoroughly removing the paint by one of the approved methods.

1. Appropriate action shall be taken to protect occupants, especially young children and pregnant women, from lead hazards associated with abatement.
2. All abatement procedures must be concluded with a thorough cleaning of all surfaces in the affected dwelling unit(s) and common areas in order to remove lead dust. Clean up shall be accomplished by vacuuming with a HEPA vacuum and washing surfaces with trisodium phosphate detergent, followed by another high efficiency vacuuming. The waste generated by abatement shall be safely disposed of in accordance with Federal, State, and local laws.

3. In the case of defective paint spots of one square foot or less, misted scraping and repainting of the defective spot is considered adequate treatment. However, treatment of defective paint spots shall include proper containment and cleanup. If the total area of defective paint spots on any one surface exceeds one square foot, or if there are defective paint spots on more than two surfaces in any one room or space (hallways, pantry, etc.), misted scraping and repainting of the defective spots is not acceptable treatment. In such circumstances, the entire defective paint surface must be abated in accordance with this section.

#### ***IV. Requirements for Non Residential Structures***

##### **A. NON RESIDENTIAL BUILDINGS**

Treatment necessary to eliminate hazards of lead-based paint shall be in accordance with paragraphs III.E.1.d. and III.F. of this section.

##### **B. OTHER NON RESIDENTIAL STRUCTURES**

Contractors eliminating hazards of lead-based paint from structures such as water tanks, fuel storage tanks, bridges and other steel structures shall be required to meet the minimum compliance level, for protection of the environment, as prescribed in 40 CFR Part 50, EPA's National Primary and Secondary Ambient Air Quality Standards, for lead. Contracting officers shall include this requirement in all contracts and subcontracts for construction work. This requirement shall also be included in all contracts and subcontracts for construction work with financial assistance from loan, grant or guaranteed programs administered by the Agency.



## ***V. Local Codes and Regulations***

The Agency as owner of inventory properties and all housing proposed for financial assistance shall comply with State or local laws, ordinances, codes, or regulations governing lead-based paint hazard abatement.

Nothing in this subsection is intended to relieve an owner, lessor or tenant of housing proposed for financial assistance or other structures of any responsibility for compliance with State or local laws, ordinances, codes or regulations governing lead-based paint hazard abatement.

The Agency does not assume any responsibility with respect to inspection, enforcement, interpretation, or determination of compliance with such State or local requirements, except that the Federal standard for lead content in paint supersedes any State or local requirement, prohibition or standard.

## ***VI. Worker Protection***

All National Institute for Occupational Safety and Health (NIOSH) and Occupational Safety and Health Administration (OSHA) lead in construction standards apply to all construction work where an employee may be occupationally exposed to lead. All construction work with financial assistance provided by the Agency shall meet the OSHA regulations for occupational lead exposure, 29 CFR part 1926, subpart D. These standards establish maximum limits of exposure to lead for all workers, including a permissible exposure limit and action level. Construction work is defined as work for construction, alternation and/or repair, including painting and decorating. Agency personnel in their review of the contract documents for construction work involving lead based paint shall make sure that the OSHA regulation for occupational lead exposure are included.